

## ACADEMIC COUNCIL COMMITTEE REPORT

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**SESSION:**

Public  
Non-Public

  

**ACTION REQUESTED:**

Decision  
Discussion/Direction  
Information

  
  

**TO:** Academic Council (AC)

**DATE:** March 23, 2021

**FROM:** Becky Dinwoodie, Associate University Secretary & Judicial Officer

**SUBJECT:** Proposed Amendments to Academic Appeal Policy & Procedures

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**MANDATE:**

- In accordance with By-law No. 2, one of AC’s responsibilities is “establishing and implementing academic and research policies except those that are organizational in nature and/or those implemented to fulfill legal compliance obligations.”
- We are seeking AC’s feedback on the proposed amendments to the Academic Appeal Policy and Procedures.

**BACKGROUND:**

- The Academic Appeal Policy and Academic Appeals Procedures (“Policy & Procedures”) are closely tied to the Academic Appeals Committee Terms of Reference (“AAC ToR”).
- As part of the implementation of By-law No. 2, Academic Council’s Governance and Nominations Committee (“GNC”) has been reviewing and updating the Terms of Reference for all of Academic Council’s standing committees.
- The GNC’s work plan for 2020-2021 includes a review and update of the AAC ToR and it made sense to conduct a review of the Policy & Procedures at the same time.
- The review of the Policy and Procedures is also timely, as the Office of the University Secretary and General Counsel received a recommendation from the Ontario Ombudsman to update our procedures to better reflect current practices and to strengthen transparency in our appeals process.

- The Ontario Ombudsman has requested that the procedural updates be implemented as soon as possible.
- Accordingly, we are recommending a two-stage process for the review and update of the Policy & Procedures:
  1. We are recommending the attached changes as the first stage of review.
  2. During recent discussions of the Academic Appeals Committee, the committee would like to conduct a broader review of the appeals process to consider incorporating something similar to an early resolution process to encourage faculty to resolve matters with students early on and to reduce reliance on the formal review and appeals process.
- The proposed amendments to the Policy and Procedures help clarify the current process.
- The Policy & Procedures have been updated into our current policy and procedures formats.

**CONSULTATION:**

- Administrative Leadership Team
- Online Consultation
- Undergraduate Studies Committee (Consultation & Approval of Procedures) – February 16, 2021
- Graduate Studies Committee (Consultation) – February 23, 2021
- Academic Council (Approval – Policy)

**NEXT STEPS:**

1. Incorporating the feedback of AC, the Policy and Procedures will proceed through the appropriate consultation path as set out in the Policy Framework. The Policy will come back to Academic Council for approval and the Procedures will return to the USC for approval.

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**SUPPORTING REFERENCE MATERIALS:**

- Draft Academic Appeal Policy
- Draft Academic Appeals Procedures

|                       |  |
|-----------------------|--|
| Classification Number | ACD 1512   |
| Framework Category    | Academic   |
| Approving Authority   | Academic Council   |
| Policy Owner          | <a href="#">Registrar/Provost</a>                                |
| Approval Date         | <a href="#">February 23, 2016</a> DRAFT FOR CONSULTATION         |
| Review Date           |  |
| Supersedes            | Academic Regulations – Undergraduate Academic Calendar 2016-2017 |

## UNDERGRADUATE ACADEMIC APPEALS POLICY

### PURPOSE

1. The purpose of this Policy is to [provide a route for review of Decisions affecting students where there is new evidence to offer, or where there were procedural irregularities in the original decision. The review of decisions may lead to an Informal Resolution or a formal Appeal.](#)
- ~~outline undergraduate level formal decisions that are eligible for appeal to the Academic Appeals Committee.~~

~~1.~~

### DEFINITIONS

2. ~~This section intentionally left blank.~~ For the purposes of this Policy, the following definitions apply:

“Appeal” means a formal process conducted by the Academic Appeal Committee to review Decisions on grounds of new evidence or procedural irregularities.

“Decision” means a decision affecting the rights of a student, made by a Decision-Maker. This includes:

- a) Decisions of the dean, Registrar, or delegate relating to:
- Academic Standing (review of academic standing);
  - Grade Reappraisals and Reconsiderations;
  - Time Limits established by the Graduation and Conferral of Degrees Policy [link];
  - Late withdrawal requests;
  - Examination deferrals; or
  - The imposition of disciplinary penalties during an appeal.
- b) Decisions of the Academic Integrity Committee relating to academic conduct/misconduct or professional suitability.
- c) Any other decision for which the Academic Appeals Committee grants leave to appeal.

“Decision-Maker” means a University body or member of the University administration, including the Academic Integrity Committee, Registrar, Dean or delegate, with the authority to make Decisions under applicable policies.

“Graduate-level Decisions” means decisions related to students registered in the School of Graduate and Post-Doctoral Studies and/or made under Graduate Academic policies or regulations.

“Informal Resolution” means a voluntary process conducted by the Judicial Officer that engages both parties in a reconsideration of the Decision. The outcome of an Informal Resolution is determined by the agreement of the parties.

~~2.~~

### SCOPE AND AUTHORITY

~~3.~~ This Policy applies to undergraduate-level formal decisions other than Graduate-level Decisions. that are eligible for appeal to the Academic Appeals Committee.

~~4.~~ The Graduate Academic Appeal Policy provides a route for reconsideration of Graduate-level Decisions.

~~3.~~

~~4.~~ This Policy does not apply to graduate-level formal decisions that are eligible for appeal. For more information regarding graduate level appeals, please refer to the Graduate Academic Calendar.

5. The ~~Registrar~~Provost, or successor thereof, is the Policy Owner and is responsible for overseeing the implementation, administration and interpretation of this Policy.

### POLICY

~~6.~~ There will be a committee established with the delegated authority to conduct Appeals and determine the outcome of Appeals. This committee will be established by the Board of Governors through the approval of Terms of Reference specifying the composition of the committee.

~~7.~~ The University Secretary will appoint a Judicial Officer to review requests for Decision reviews, to determine whether there are grounds to believe that new evidence or procedural irregularity affected the outcome of the Decision, to engage the parties in a voluntary Informal Resolution process, and to provide administrative and procedural support to the Academic Appeals Committee.

~~8.~~ A student has grounds to request a review of a Decision where there is:

a) New evidence (evidence relevant to the Decision made at the lower level, but, through no fault of the student, not presented at that level. Generally speaking, events or performance subsequent to the lower level Decision are will not to be construed as new evidence); or

b) Evidence of procedural irregularity in the original consideration of the matter.

9. Procedures for requesting a review of a Decision will be established under this Policy.
10. A student may elect to participate in a voluntary Informal Resolution process conducted by the Judicial Officer where the Judicial Officer believes the process will be effective. Procedures for Informal Resolution will be established under this Policy.
11. Where the student does not elect to participate in Informal Resolution, or the parties do not come to an agreement on a resolution, the matter will proceed to an appeal. Procedures for conducting an Appeal will be established under this Policy.

**6. Eligibility for appeal**

- 6.1. An exhaustive list of formal decisions eligible for appeal to the Academic Appeals Committee is set out below. All other decisions shall be deemed final.
- a) Decisions of the dean/delegate, relating to:
- Academic Standing (review of academic standing);
  - Grade Reappraisals and Appeals Reconsiderations; or
  - Time Limits; or
  - The imposition of disciplinary penalties during an appeal.
- b) Decisions of the Academic Integrity Committee relating to academic conduct/misconduct or professional suitability.
- c) Decisions on the basis of procedural irregularity only, any other decision for which the Academic Appeals Committee grants leave to appeal.

**7.12. Status during an appeal**

7.1.12.1. Under normal circumstances, disciplinary penalties will not be enforced before an appeal Appeal is decided, nor will official transcripts be issued.

7.2.12.2. In cases where continued attendance by the student would have a detrimental effect on the student or others (including, but not limited to circumstances where issues of safety and security to the individuals or property are involved), the dean of the relevant faculty may determine that the penalty imposed by the faculty will stay in effect until the completion of the appeal proceedings.

7.3.12.3. If the appeal Appeal is granted, formal registration will be reinstated or the matter remitted back to the dean or provost for reconsideration as appropriate.

**MONITORING AND REVIEW**

8.13. This Policy will be reviewed as necessary and at least every three years. The Registrar, or successor thereof, is responsible to monitor and review this Policy.

**RELEVANT LEGISLATION**

9.14. This section intentionally left blank.

**RELATED POLICIES, PROCEDURES & DOCUMENTS**

**15. Undergraduate Academic Appeals Procedures**

[Fair Processes Policy](#)

[Graduation and Conferral of Degrees Policy](#)

[Grading System and Academic Standing Policy \(Undergraduate\)](#)

~~[Academic Appeal Procedures](#)~~

DRAFT

|                       |   |
|-----------------------|---|
| Classification Number | ACD 1512.01   |
| Parent Policy         | Academic Appeal Policy  |
| Framework Category    | Academic  |
| Approving Authority   | Academic Council  |
| Policy Owner          | Registrar   |
| Approval Date         | <a href="#">February 23, 2016</a> <del>DRAFT FOR CONSULTATION</del> |
| Review Date           |   |
| Supersedes            |   |

## UNDERGRADUATE ACADEMIC APPEALS PROCEDURES

### PURPOSE

1. The purpose of these Procedures is to outline the process for [requesting a Decision review where there is new evidence to offer, or wher procedural irregularities affected the original decision. The review may lead to an Informal Resolution or a formal Appeal submitting an undergraduate-related appeal](#) to the Academic Appeals Committee.

### DEFINITIONS

2. \_\_\_\_\_ This section intentionally left blank.

3. [“Appeal” means a formal process conducted by the Academic Appeal Committee to review Decisions on grounds of new evidence or procedural irregularities.](#)

[“Balance of Probability” means a standard of proof that applies to all decisions. This standard requires a decision-maker to, after considering and weighing the evidence, believe a fact, event or allegation is more likely to have occurred than not when arriving at a decision.](#)

[“Decision” means a decision affecting the rights of a student, made by a Decision-Maker. This includes:](#)

- a) [Decisions of the dean, Registrar, or delegate relating to:](#)

- [Academic Standing \(review of academic standing\);](#)
- [Grade Reappraisals and Reconsiderations;](#)
- [Time Limits established by the Graduation and Conferral of Degrees Policy \[link\];](#)
- [Late withdrawal requests;](#)
- [Examination deferrals; or](#)
- [The imposition of disciplinary penalties during an appeal.](#)

- b) [Decisions of the Academic Integrity Committee relating to academic conduct/misconduct or professional suitability.](#)

- c) [Any other decision for which the Academic Appeals Committee grants leave to appeal.](#)

[“Decision-Maker” means a University body or member of the University administration, including the Academic Integrity Committee, Registrar, Dean or delegate, with the authority to make Decisions under applicable policies.](#)

“Graduate-level Decisions” means decisions related to students registered in the School of Graduate and Post-Doctoral Studies and/or made under Graduate Academic policies or regulations.

“Informal Resolution” means a voluntary process conducted by the Judicial Officer that engages both parties in a reconsideration of the Decision. The outcome of an Informal Resolution is determined by the agreement of the parties.

“Working Day” means any day, excluding Saturdays, Sundays, statutory holidays and university closures, on which business can be conducted.

~~2.~~

## SCOPE AND AUTHORITY

~~4.~~ These Procedures apply to Decisions other than Graduate-level Decisions.

~~5.~~ The Graduate Academic Appeal Policy provides a route for reconsideration of Graduate-level Decisions.

~~3.6.~~ apply to undergraduate-related appeals submitted to the Academic Appeals Committee.

~~4.~~ These Procedures do not apply to graduate-related appeals. For more information regarding the submission of graduate-related appeals, please refer to the Graduate Academic Calendar.

~~5.7.~~ The Registrar/Provost, or successor thereof, is the Policy Owner and is responsible for overseeing the implementation, administration and interpretation of these Procedures.

## PROCEDURES

~~6.~~ Ground for appeals

~~6.1.~~ Appeals to the Academic Appeals Committee will be permitted only on the grounds of:

- ~~a)~~ New evidence, i.e., evidence relevant to the decision made at the lower faculty level, but, through no fault of the appellant, not presented at that level. Generally speaking, events or performance subsequent to the faculty lower level decision are will not to be construed as new evidence; or
- ~~b)~~ Evidence of procedural irregularity in the original consideration of the case.

~~7.8.~~ Process for submitting an appeal request for Decision review

~~7.1.8.1.~~ Appeals Requests must be submitted to the Judicial Officer Academic Appeals Committee must be submitted within 10 working days of the original faculty-level administrative decision Decision by the Decision-Maker using the form supplied and must contain:

- A copy of ~~T~~the specific decision Decision which that is being appealed;
- The form of redress requested;



- The specific grounds on which the appeal is made;
- A summary of the evidence in support of these grounds;
- ~~The complete text of the decision being appealed;~~ and
- The text of the relevant procedural regulations (if any) allegedly violated or otherwise deemed applicable to the case.
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## 9. Initial Review

9.1. The Decision review request is initially reviewed by the Judicial Officer to assess whether there is some evidence, which if believed, constitutes new evidence or a procedural irregularity. There are four (4) potential outcomes arising out of this initial review:

- a) The evidence submitted by the appellant, even if accepted by the committee as true, would not be sufficient to prove either ground of appeal on a Balance of Probabilities, and the appeal is dismissed without a hearing or further consideration (Dismissal);
- b) There is some evidence of one or both grounds, and the Judicial Officer recommends a voluntary Informal Resolution process involving the Decision-Maker and the student. (Informal Resolution);
- c) There is some evidence of one or both grounds, and the matter proceeds to a formal oral or written hearing (Formal Hearing); or
- d) There is overwhelming evidence of one or both grounds, such that the Committee can render a decision on the merits of the appeal without a hearing (Appeal Granted).

## 10. Informal Resolution

10.1. The Judicial Officer may, with the consent of the appellant, refer the matter back to the original decision maker for reconsideration in light of the new evidence or procedural irregularity.

10.2. The Informal Resolution process is voluntary. The appellant may instead request a Formal Hearing.

10.3. The Decision-Maker will review the Decision in consultation with the Judicial Officer and, within ten (10) Working Days make a written offer of resolution to the appellant.

10.4. The appellant will have five (5) Working Days to either accept or communicate their non-acceptance in writing to the Academic Appeals Committee.

10.5. If the appellant rejects the informal resolution offer, the matter will proceed to a Formal Hearing of the Academic Appeals Committee.

10.6. Once an informal resolution offer is rejected by the appellant, it cannot be accepted or requested at a later date. The Academic Appeals Committee is not bound by the original Decision or any Informal Resolution offer.

## **11. Formal Hearing**

11.1. The Academic Appeals Committee may exercise its discretion to call a formal hearing to assess the merits of the case where there is some evidence, which if accepted by the committee as true, constitutes new evidence or evidence of procedural irregularity. Where merited, the committee will exercise its discretion to call a hearing. Hearings may be in writing or in person. Oral hearings may be warranted in circumstances where documentary evidence requires clarification, findings of credibility are required to reach a decision, or for matters involving serious consequences.

## **12. Written Hearing Procedures**

12.1. As soon as reasonably practicable the Committee will provide a copy of the Notice of Appeal to the responding Decision-Maker;

12.2. The responding Decision-Maker has ten (10) Working Days to deliver to the Committee a written response to the Notice of Appeal, attaching any documents relevant to the decision under appeal. A copy of the written response and attached documents will be provided to the appellant by email;

12.3. The appellant will have ten (10) Working Days from the mailing date of the responding Decision-Maker's response to provide any final written response. A copy of this will be provided to the responding Decision-Maker.

12.4. Where the appeal is to be determined in writing, the members of the panel may convene in person or via teleconference to consider the submissions of the appellant and the responding Decision-Maker.

## **13. Oral Hearing Procedures**

13.1. Upon receipt of the Notice of Appeal, the Committee, in consultation with the appellant and the responding Faculty will schedule a date for the oral hearing;

13.2. No less than ten (10) working days prior to the hearing, the appellant, will deliver to the Judicial Officer:

- a) Any written submissions to be relied upon at the hearing;
- b) Copies of all documents to be referred to at the hearing;
- c) A list of persons attending as witnesses and a brief summary of each witness's intended evidence;

13.3. No less than five (5) working days prior to the hearing, the responding Decision-Maker, will deliver to the Judicial Officer:

- a) Any written submissions to be relied upon at the hearing;
- b) Copies of all documents to be referred to at the hearing;

- c) A list of persons attending as witnesses and a brief summary of each witness's intended evidence;
- 13.4. The Judicial Officer will share submissions with the appellant, the responding decision-maker and members of the Academic Appeals Committee.
- 13.5. At the commencement of the Oral Hearing, the chair will identify the parties and the members of the Committee;
- 13.6. The appellant or a representative will briefly describe the case to be presented, and provide factual support for the case through documentary evidence and testimony of the appellant and any witnesses, if relevant;
- 13.7. The responding Decision-Maker or a representative will briefly reply to the appellant's case and provide facts in opposition to the case through documentary evidence and the testimony of witnesses, if relevant;
- 13.8. Committee members may ask questions at the conclusion of each person's statement or testimony, or at the conclusion of the appellant's or responding Decision-Maker's case;
- 13.9. Normally, neither the appellant nor the responding Decision-Maker or representative may ask questions of the other's witnesses. Where facts important to the decision of the appeal are in dispute, however, either party may ask permission and, if appropriate, the Committee may grant permission for the cross-examination of some or all witnesses;
- 13.10. Following the presentation of the appellant's and the responding Decision-Maker cases, each of the appellant and the responding Decision-Maker may make brief closing statements to summarize the main points of their respective positions;
- 13.11. Following the foregoing steps, the parties will withdraw and the Committee will move in camera for its deliberations;
- 13.12. The decision of the Committee will be in writing and will include the names of the Committee and all who appeared, a brief summary of the issues on the appeal, the Committee's decision and reasons in support of the decision.

#### 14. Outcomes

- 14.1. The Academic Appeals Committee will grant an appeal where the new evidence or evidence of a procedural irregularity has been proven by the appellant on a Balance of Probabilities and has not been rebutted. In this case, the Academic Appeals Committee may:
  - a) overturn the decision,
  - b) substitute a different decision and/or sanction; or
  - c) order any other remedy viewed to be appropriate in all of the circumstances.

14.2. [The decision may include some, none or all of the redress requested by the appellant. \(Eg. Academic standing, final grades or sanctions may change in favour of or not in favour of student, withdrawals may be granted or rescinded, notations added to, deleted from or changed on transcript, assessments re-written or re-appraised\)](#)

## 15. Time Limits

15.1. [The time limits specified under these procedures may be extended by the chair at the request of the appellant or responding Decision-Maker, if reasonable grounds are shown for the extension.](#)

## **MONITORING AND REVIEW**

8.16. These Procedures will be reviewed as necessary and at least every three years. The Registrar, or successor thereof, is responsible to monitor and review these Procedures.

## **RELEVANT LEGISLATION**

9.17. This section intentionally left blank

## **RELATED POLICIES, PROCEDURES & DOCUMENTS**

10.18. [Undergraduate Academic Appeals Policy](#)

[Notice of Academic Appeal Form](#)

[Fair Processes Policy](#)

[Graduation and Conferral of Degrees Policy](#)

11. [Grade Reappraisal and Review of Academic Standing Policy and Procedures](#)